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November 12, 2018

BY ECF

Hon. Lewis A. Kaplan  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007-1312

Re: United States v. Philip Luciano  
18 Cr 48 (LAK)

Dear Judge Kaplan:

This letter is submitted on behalf of defendant Philip Luciano, age 30, in anticipation of his sentencing before Your Honor at 3:00 p.m. on November 27, 2018. As set forth below, it is respectfully submitted that under the particular facts presented by Philip Luciano's case, a sentence of 60 months imprisonment, the mandatory minimum term permitted by law, should be imposed. This request is in accord with the Sentencing Recommendation made to Your Honor by the Probation Department.

On August 8, 2018, Philip pled guilty pursuant to a written Plea Agreement with the government to Count One of the Indictment charging him and his father, Michael, with conspiracy to distribute butyryl fentanyl, fentanyl, and oxycodone between January 2015 and July 2017. This count carries a five-year statutory minimum term of imprisonment. The parties agree that absent the statutory minimum term, the advisory U.S. Sentencing Guidelines prison range in Philip's case would be 30-37 months - because he has no prior criminal history and the Total Offense Level is 19. In accordance with Guideline 5G1.1(b), however, where a statutorily required minimum sentence is greater than the maximum of the applicable guideline range, the statutorily required minimum sentence shall be the guideline sentence.

The offense of conviction here was not driven by greed.<sup>1</sup> Rather, it was driven by the Lucianos' desire to fund their own opioid addictions. At the age of 25, Philip's leg was crushed and terribly damaged when it was accidentally wedged between a telephone pole and a moving car. He was treated in the trauma center at Richmond University Hospital in Staten Island, and when finally released, was unable to walk on his own. Thereafter, he required nearly a year of physical therapy just to walk again. After the injury, his doctors prescribed him pain-killers, beginning with percocet, progressing to oxycodone and eventually fentanyl. Unfortunately, he became addicted to these drugs.

Philip's opioid addiction clearly clouded his judgment and ultimately transformed a young man with a once promising future in the community - to an addict now facing an immediate future behind prison walls. Philip is very embarrassed by and remorseful

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<sup>1</sup> As set forth in the parties' Plea Agreement, the amount of proceeds traceable to the commission of this offense is \$15,953.

for his conduct and has accepted that he has a debt to pay to society. But, he has a genuine desire to redeem and rehabilitate himself.

At the time of Philip's arrest on August 23, 2017, Judge Caproni, who ultimately presided over his bail proceedings, recognized that Philip was not a lost cause, rather, that he needed help to steer him in the right direction. Judge Caproni, over the government's objection, ordered Philip's released on bond, but with conditions. Namely, that he be placed directly into an inpatient drug treatment program where he was to remain for a period of 90 days. Philip did not disappoint the Court. He successfully completed the inpatient program at Samaritan Village and was then released to home confinement, with among other conditions, that he enroll and remain in an outpatient drug treatment program, remain drug-free, refrain from using the internet or a cellphone, and otherwise lead a law-abiding life. Philip, again, did not disappoint the Court. As set forth in the PSR, Philip strictly complied with all of the terms and conditions of his release during the near year that he remained at liberty on Bond, including that the condition that he remain drug free.<sup>2</sup> See PSR at paragraph 8. Attached hereto for Your Honor's review, is a letter from his substance abuse counselor, Jennifer DeFillipo. As Ms. DeFillipo explained in her letter:

This is to confirm that Mr. [Philip] Luciano was enrolled in Camelot Counseling Center's Outpatient Substance Abuse Program from 12/11/17 through 8/1/18. Mr. Luciano attended three group and one individual session per week. During his time in the program,

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<sup>2</sup> Philip has also not been sanctioned for violating any institutional rules or regulations since he was placed in BOP custody at the time of his guilty plea on August 8, 2018. Id.

he made significant progress towards his treatment plan goals; gained knowledge about his addictive behavior as well as utilizing consequential thinking and coping skills. In addition, he never missed a session and gave a consistent pattern of negative toxicology results.

Obviously, it would be in Philip's best interest to continue with treatment - so I respectfully join in the request made to Your Honor by the Probation Department that he be recommended for enrollment in the BOP Residential Drug Abuse Program while in prison. Simply put, a drug-free Philip Luciano is a person who holds promise for the future and in his community.<sup>3</sup>

For all of the foregoing reasons, I am respectfully requesting that Your Honor sentence Philip Luciano to a 60 month term of imprisonment.

Respectfully submitted,

/JRF/

James R. Froccaro, Jr.

JRF:pa  
Encls.

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<sup>3</sup> Attached hereto for Your Honor's review are letters from family and friends, including Philip's mother, Laura, all echoing the sentiment - that he possesses a number of redeeming qualities.



A RESOURCEFUL APPROACH FOR ENDURING RECOVERY

JOHN COLEMAN  
CASAC  
DIRECTOR OF OPERATIONS AND OUTREACH  
OFFICER

LUKE J. NASTA, M.P.A.  
CHIEF EXECUTIVE

November 9, 2018

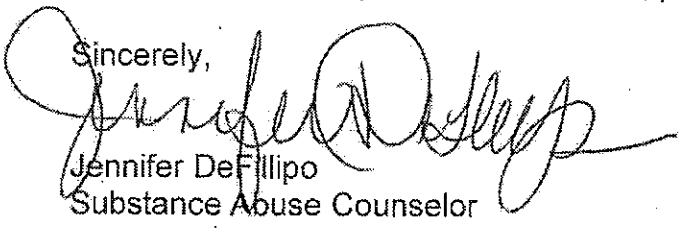
James R. Froccaro Jr., ESQ.  
20 Vandeventer Ave. Suite 103W  
Port Washington, New York 11050

Dear Mr. Froccaro:

This is to confirm that Mr. Luciano was enrolled in Camelot Counseling Center's Outpatient Substance Abuse Program from 12/11/17 through 8/1/18. Mr. Luciano attended three groups and one individual session per week. During his time in the program, he made significant progress toward his treatment plan goals; gained knowledge about his addictive behavior as well as utilizing consequential thinking and coping skills. In addition, he never missed a session and gave a consistent pattern of negative toxicology results.

Should you need any further information, please contact me.

Sincerely,

  
Jennifer DeFillipo  
Substance Abuse Counselor

October 18, 2018

Laura Luciano  
35 Bidwell Avenue  
Staten Island, New York 10314

Re: United States vs Philip Luciano

Honorable Lewis A. Kaplan,

My name is Laura Luciano. I work at Richmond University Medical Center, (formally St. Vincent's Medical Center). I have worked there for the past thirty years in an administrative capacity. Philip Luciano is my son.

Friends, family and neighbors have often told me what a good person Philip is. This was evident to me from the time he was a small child. I knew he was respectful and kind because while the other kids were playing he would often stop to talk to an older gentleman on our block that lived alone and sat out on his front porch. I have seen these qualities carry over into adulthood especially when he helped care for his grandfather who could no longer care for himself.

Philip has never been in trouble before. He never gave me a problem growing up. He was a good student who was outgoing and got along well with others. He's always been dependable for me helping with chores and projects around the house. He enjoys spending time with family and establishing traditions with them.

Philip has worked hard to earn a college degree but suffered a major set back when his leg was crushed in a car accident.

I am aware of the charges against Philip. He is embarrassed and regrets his actions. He is drug free having successfully completed an inpatient program at Samaritan Village and outpatient services at Camelot. Please consider the qualities I have mentioned when sentencing my son.

Sincerely,



Laura Luciano

October 22, 2018

William Luciano  
35 Bidwell Avenue  
Staten Island, NY 10314

RE: Philip Luciano vs. United States

Honorable Lewis A. Kaplan,

My name is William Luciano and I am the brother of Philip Luciano. I currently work at a Tour and Travel company for student groups who travel throughout the country and have been there for over three years. I graduated from Wagner College in 2014 with my Bachelors degree in Business Administration.

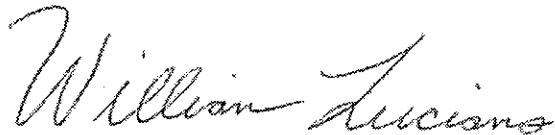
Philip and I have been best friends all of our lives. We lived together up until last year when I got my first apartment with my fiancé. He has always been there for me from coaching my baseball teams with my father to guiding me through high school and college. He never asked for anything in return he just enjoyed lending a helping hand.

I will be getting married in October of 2020 and I always planned on having Philip as my best man. I never would have thought that would not be a possibility. He has always supported my fiancé and I with anything we needed over the last four years especially when she lived at my parents house during her parents' divorce. He even voluntarily switched rooms with us since it was larger to make her feel more comfortable when moving in. That is the type of person Phil is.

When he was in a car accident where a car pinned him against a pole and destroyed muscle in his leg is when he started being prescribed pain medication from his doctor. He got addicted as most people do who are prescribed these medications. He recently completed an inpatient rehabilitation in upstate New York and continued going to rehab when he came back home at an outpatient facility. He completely regrets his actions as we have spoken in length about everything that has happened and he is determined to continually better himself.

Please consider all of these qualities I have provided above when sentencing my brother.

Sincerely,



William Luciano

October 13, 2018

Debbie Luciano Lezzo  
30 Birmingham Dr  
Manalapan, New Jersey  
07726

Honorable Lewis A. Kaplan  
RE: Philip Luciano

Your Honor

Philip Luciano is my nephew, Phil is a very smart, loving caring boy. Phil has completed two bachelors degrees.

Phil was involved in an accident and got pinned to a tree back in 2011. He experienced a lot of pain with a sever leg injury.

Doctors prescribe opioids.

MY father was a very sick man unable to perform everyday tasks unassisted. Philip and his father were at dads house everyday. Helping him thru his routine, preparing meals, showers, taking him to dr appointments. He never complained!

Michael and Philip lived very close to dad so all emergency calls always fell on them

Your Honor this is a horrible situation for ALL involved. Philip is a good person with a promising future ahead of him. I beg you to understand this is a family who became dependent on opioids due to legitimate reasons, doctors are under so much scrutiny that they cut these people off and just leave them addicted to opioids out in the world where they are readily available.

Philip has completed his rehab program and is ready to become a upstanding member of society

Sincerely



Debbie Luciano Lezzo

October 21, 2018

MaryAnn Mallen  
211 Myrtle Avenue  
Staten Island, New York 10310

Re: United States vs Philip Luciano

Honorable Lewis A. Kaplan,

My name is MaryAnn Mallen. I am a retiree of the United States Federal Government. I worked for the Social Security Administration on Staten Island for 38 years. Philip Luciano is my nephew.

Philip has a kind and loving nature. I often witnessed this as he was growing up. He spent many hours at my house as I have a daughter the same age and they shared many childhood memories together. He is always ready to lend a helping hand when I need it. Except for last year he has spent every Christmas Eve with me and was always willing to volunteer to play Santa for the younger children of the family.

When Philip was in college working towards his degree he helped care for his bedridden grandfather. He's compassionate and a good listener. He has often helped calm my fears especially when I was diagnosed with breast cancer.

Please consider these statements of Philip's character when determining an appropriate sentence.

Sincerely,

*MaryAnn Mallen*

MaryAnn Mallen

October 18, 2018

Matthew Lezzo  
68 Court Street  
Freehold, New Jersey  
07728

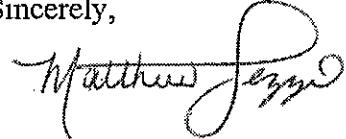
Honorable Lewis A. Kaplan  
Your Honor,

Philip Luciano is my oldest cousin, I have known him my entire life. Phil was always energetic and outgoing, he was the one cousin that made it a point to include the rest of our cousins in family events such as holiday football games; he was always family oriented. Phil is intelligent and extremely driven, he is always asking questions about how or why things work the way they do.

When my grandfather fell ill, Phil and my uncle Mike were staples in caring for him. Phil would spend all day and night with him helping him with his daily activities. I can remember my grandfather telling me that he would be lost without Phil. I know that Phil was responsible for making my grandfather's last days enjoyable, and for that I can never thank him enough.

Phil was an honors student in high school and even during college. During his time studying to be a Physician's Assistant, Phil endured an accident in which he suffered muscle and nerve damage after his leg was crushed between a car and a light pole. I remember Phil being in severe pain for which he had trouble controlling, this is when he started receiving prescription pain medication. Since the time after Phil's accident he was never quite the same. When I was younger I would look up to Phil, he was a great kid, a hard worker, and one of the most intelligent people I know. For these reasons, I know that Philip understands the mistakes he has made and given the opportunity will do great things after getting his life back on tract. Thank you for taking the time to read my letter.

Sincerely,



Matthew Lezzo

Elaina Giovanniello  
27 Bidwell Avenue  
Staten Island, NY 10314

October 16, 2018

RE: United States of America v. Michael Luciano and Philip Luciano

Dear Honorable Lewis A. Kaplan,

This letter is in reference to the case involving Michael and Philip Luciano. Please allow me to begin with a quick introduction of ourselves, Elaina & Mark Giovanniello of Bidwell Ave., Staten Island, NY. Mark has a 15 year tenure with the Department of Sanitation and I held a career in the banking industry for 10 years.

Michael and Philip Luciano have been our next door neighbors for about 6 years. Throughout our residence they have been welcoming, helpful and provided assurance that I was safe at all times in my home. As previously stated that my spouse works for the Department of Sanitation, he regularly works 13 hour shifts during the winter. The Luciano's assisted with snow removal on our property during every snow fall and kindly took the initiative to assist me with anything I needed. Knowing they were available while my husband could not be, reassured my safety concerns and kept my mind at ease.

It was transparent early on that both individuals suffered accidental injuries on separate occasions. This raised no cause for concern or affected us negatively as neighbors. Their home is well kept and each family member is polite and respectful. To this day, we are grateful to have their family as our neighbors. Kindly consider our honest and genuine acknowledgements regarding our neighbors while determining an appropriate sentence.

Sincerely,



Elaina Giovanniello